

Notice of Allowability

Application No.

09/764,224

Examiner

Christopher H Yaen

Applicant(s)

MARINKOVICH, VINCENT

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/1/2004.
2. ☒ The allowed claim(s) is/are 1-4,6 and 20-23.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

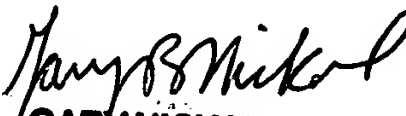
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


GARY NICKOL
PRIMARY EXAMINER

Christopher Yaen
Art Unit 1642

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kieun Jenny Sung on 1/20/2005 and on 1/24/2005.

The application has been amended as follows:

1. (currently amended) A composition comprising a monoclonal antibody directed to a cancer cell and transfer factor wherein the monoclonal antibody is conjugated to a fungal antigen or mumps virus.
2. (currently amended) The composition according to claim 1 wherein the cancer cell is monoclonal antibody is directed to a predetermined type of cell that is in a body part selected from the group consisting of lung cancer cell, pancreas cancer cell, liver cancer cell, cervical cancer cell, cervix, kidney cancer cell, brain cancer cell, and breast cancer cell, and spleen cancer cell.
3. (currently amended) The composition according to claim 2 wherein the cancer cell is monoclonal antibody is directed to a predetermined type of cells in a pancreas cancer cell.
4. (previously presented) The composition according to claim 1 wherein the fungal antigen is asp fl.
5. (canceled) The vaccine according to claim 1 wherein the antigen is the mumps virus.
6. (previously presented) The composition according to claim 1 wherein the monoclonal antibody is selected from the group consisting of 17-1A, CC49, EGFr surface factor, anti MC-10 antigen, anti-HBR2, anti-CD20, NR-LU-10 and MDX-H210.

Art Unit: 1642

7. (canceled) An anti-cancer vaccine comprising a virus and transfer factor wherein the virus infects cancer cells, wherein the virus further includes an antigen.
8. (canceled) The vaccine according to claim 7 wherein the virus is selected from the group consisting of mumps, hepatitis encephalitis, Varicella, Rubella and measles.
9. (canceled) The vaccine according to claim 8 wherein the virus is the mumps virus.
10. (canceled) The vaccine according to claim 7 wherein the antigen is asp fl.
11. (canceled) A method of treating cancer comprising:
 - a) preparing a vaccine according to claim 1 and
 - b) administering the vaccine.
12. (canceled) A method of applying the composition of claim 1, said method comprising:

administering said monoclonal antibody to a human being; and

administering said transfer factor to the human being in a separate step.
13. (canceled) A composition comprising the vaccine of claim 7 for use in the treatment of cancer in a human body said method comprising administering to said human said virus and said transfer factor in separate steps.
14. (canceled) A cancer immunotherapy composition comprising a virus wherein the virus further includes an antigen and wherein the virus infects cancer cells.
15. (canceled) The composition according to claim 14 wherein the virus is the mumps virus.
16. (canceled) The composition according to claim 17 further including transfer factor.
17. (canceled) A cancer immunotherapy kit comprising a virus that infects cancer cells, wherein the virus further includes an antigen.
18. (canceled) The kit according to claim 18 further including transfer factor.
19. (canceled) The kit according to claim 18 wherein the virus is the mumps virus.

Art Unit: 1642

20. (currently amended) A kit comprising a monoclonal antibody directed to a cancer cell and a transfer factor wherein the monoclonal antibody is conjugated to a fungal antigen or mumps virus.
21. (previously presented) The kit according to claim 20 wherein the fungal antigen is aspergillus.
22. (previously presented) The composition of claim 1, wherein the fungal antigen is an aspergillus antigen.
23. (previously presented) The kit of claim 20, wherein the fungal antigen is an aspergillus antigen.

All rejections are withdrawn in view of the applicant's amendments and arguments thereto as set forth in a paper filed 11/1/2004.

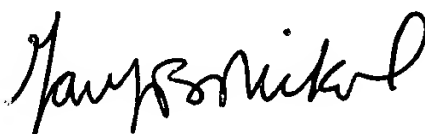
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher H Yaen whose telephone number is 571-272-0838. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1642

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Yaen
Art Unit 1642
January 24, 2005


GARY NICKOL
PRIMARY EXAMINER